

MATTLEMAN, WEINROTH & MILLER
BY: ROBERT W. WILLIAMS
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(856) 429-5507
Attorneys for M & T Bank
File no. 2900.98668

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	:	CHAPTER 7 PROCEEDING
	:	
Beato Fermin-Castillo	:	BANKRUPTCY NO. 18-14935-REF
Julia Fermin-Castillo	:	
	:	Hearing Date: November 8, 2018 @ 9:30am
Debtors.	:	

**MOTION FOR RELIEF FROM THE AUTOMATIC STAY OF SECURED CREDITOR
FOR FAILURE TO MAKE PAYMENTS**

AND NOW, comes secured creditor, M & T Bank (“Movant”), by and through its counsel, ROBERT W. WILLIAMS, Esquire, and hereby requests a termination of the Automatic Stay and Leave to Foreclose its Mortgage on real property owned by the Debtors pursuant to section 362(d) of the U.S. Bankruptcy Code.

1. Movant is M & T Bank.
2. Debtors Beato Fermin-Castillo and Julia Fermin-Castillo are the owners of the premises located at 543 N 14th, Reading, Pennsylvania, 19604.
3. Movant is the secured mortgagee creditor of the premises. A copy of the Note, Mortgage, and Assignment of Mortgage into Movant is attached hereto as Exhibit “A.”
4. Debtors filed this Chapter bankruptcy petition on July 26, 2018.
5. The Debtors have defaulted under the Note and Mortgage held by Movant. The Debtors are due for the October 1, 2016 through August 1, 2018 mortgage payments and has not made a payment since the payment contractually due September 1, 2016.

6. As of August 18, 2018, the Debtors owes approximately **\$148,812.43** on the Mortgage to Movant. The following is a breakdown of the amounts due and owing under the Mortgage:

Principal	\$ 130,098.88
Interest from 9/1/2016 to 8/16/2018 at 4%	8,164.11
Escrow Advances	7,673.66
Foreclosure Fees/Costs	1,929.39
Late Charges	440.20
Property Inspections	322.00
Recording Fees	164.00
Prorata MIP	20.19
TOTAL DUE AS OF 8/16/2018	\$ 148,812.43

Interest continues to accrue at a rate of \$11.43 per diem.

7. The total amount to cure the default under the Mortgage is **\$21,503.10**. A breakdown of the amount due to cure the default is as follows:

2 payments from 10/1/2016 to 11/1/2016 @ \$697.91	=	\$1,395.82
1 payments from 12/1/2016 to 12/1/2016 @ \$965.69	=	\$965.69
20 payments from 1/1/2017 to 8/1/2018 @ \$822.50	=	\$16,450.00
Foreclosure Fees/Costs	=	\$1,929.39
Accrued Late Charges	=	\$ 440.20
Property Inspections	=	\$ 322.00
Bankruptcy Fees/Costs	=	\$ 0.00
TOTAL	=	\$21,503.10

8. In Schedule A to the Debtors's Chapter 7 Petition, the Debtors lists the value of the subject property at \$73,569.00. The Debtors's Statement of Intention reflects an intent to surrender the Property. Clearly, the Debtors has no equity in the subject property, and it is not necessary for an effective reorganization.

9. Movant seeks to have the Automatic Stay terminated to permit Movant to complete foreclosure on its mortgage.

10. Movant is entitled to relief from the automatic stay under section 362(d) of the U.S. Bankruptcy Code because of the foregoing default over a nearly seven (7) year period and because adequate protection of the interest of Movant is lacking.

11. If Movant is not permitted to foreclose on its mortgage on said premises, it will suffer irreparable injury, loss and damage.

12. Movant has cause to have relief from the Automatic Stay effective immediately and such relief should not be subject to the fourteen (14) day period set forth in Bankruptcy Rule 4001 (a)(3), as Movant will incur substantial additional costs and expenses by the imposition of said fourteen (14) day period.

WHEREFORE, Movant respectfully requests this Court enter an Order Modifying the Automatic Stay under section 362 of the Bankruptcy Code with respect to the mortgaged premises so as to permit Movant to foreclose on its mortgage and allow Movant or any other purchaser at Sheriff's Sale to take legal action for enforcement of its right to possession of said premises. Movant also respectfully requests attorney's fees and costs associated with the filing of this Motion.

Movant also requests that the court order entered pursuant to the instant Motion provide that all communications sent by Movant in connection with proceeding against the property including, but not limited to, notices required by state law and communications to offer and provide information with regard potential loss mitigation options pursuant to applicable non-bankruptcy law, including loan modifications, deeds in lieu of foreclosure, short sales and/or any other potential loan workouts or loss mitigation agreements, be sent directly to Debtors.

Respectfully Submitted,

Dated: October 12, 2018

/s/ Robert W. Williams
ROBERT W. WILLIAMS, ESQUIRE
Attorney I.D. No. 311874
For the Firm

**THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY

Upon the Motion of M & T Bank, by and through its attorney, ROBERT W. WILLIAMS, Esquire, under Bankruptcy Code section 362 for relief from the automatic stay as to certain property as hereinafter set forth, and for good cause shown, it is

On this day of , 2018

ORDERED, DECREED, AND ADJUDGED that the automatic stay is hereby vacated to permit Movant, M & T Bank, its successors and assigns, to foreclose on its mortgage and allow the purchaser of said premises at Sheriff's Sale (or purchaser's assignee) to take any legal action for the enforcement of its right to possession of the real property commonly known as 534N 14th Street, Reading, PA 19604.

It is further **ORDERED** that all communications sent by Movant, M & T Bank, in connection with proceeding against the real property including, but not limited to, notices required by state law and communications to offer and provide information with regard potential loss mitigation options pursuant to applicable non-bankruptcy law, including loan modifications, deeds in lieu of foreclosure, short sales and/or any other potential loan workouts or loss mitigation agreements, be sent directly to the Debtors.

The relief granted by this Order shall survive the conversion of this bankruptcy case to a case under any other Chapter of the Bankruptcy Code.

The relief granted by this Order shall be effective immediately and shall not be subject to the fourteen (14) day period set forth in Bankruptcy Rule 4001(a)(3).

BY THE COURT:

The Honorable Richard E. Fehling
United States Bankruptcy Court

cc: Robert W. Williams, Esquire (*via ECF notification*)
Robert H. Holder, Trustee (*via ECF notification*)
Shawn J. Lau, Esquire (*via ECF notification*)
Beato Fermin-Castillo
440 N 13th Street
Reading, PA 19604
Julia Fermin-Castillo
440 N 13th Street
Reading, PA 19604

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CERTIFICATION OF SERVICE

I, ROBERT W. WILLIAMS, Esquire, counsel for M & T Bank, hereby certify that a copy of the foregoing Motion for Relief from the Automatic Stay, Notice of Motion, Response Deadline and Hearing Date, and supporting documentation was served upon the following parties via the method set forth below this 12th day of October, 2018:

<i>Debtors:</i> Beato Fermin-Castillo 440 N 13 th Street Reading, PA 19604 Julia Fermin-Castillo 440 N 13 th Street Reading, PA 19604 <i>Via U.S. First Class Mail</i>	<i>Ch. 7 Trustee:</i> Robert H. Holber Robert H. Holber PC 41 East Front Street Media, PA 19063 <i>Via ECF Notification</i>
Shawn J. Lau Lau & Associates 4228 St. Lawrence Avenue Reading, PA 19606 <i>Via U.S. First Class Mail</i>	

MATTLEMAN, WEINROTH & MILLER

Dated: October 12, 2018

BY: /s/ Robert W. Williams
Robert W. Williams, Esquire
Counsel for M & T Bank